IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 20369 of 1994

Between:

K.C.Lakshman Rao S/o.Rathnamaiah
Sadapuram Village Adoni Taluk
Kurnool Dist

..... PETITIONER

AND

1 Commissioner for Land Revenue Govt. of Andhra Pradesh
Hyderabad
2 Joint Collector Kurnool,
Kurnool Dist
3 Mandal Revenue Officer Adoni
Kurnool Dist
4 Hanumanna S/o.Peddaiah
2-477/2 Guntakal
Anantapur Dist

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the concerned records relating to the 1st respondent in his proceedings BC W5/756/92, Dt.16/7/1994 and quash the same by issuance of a writ, direction, or order, particularly one in the nature of certiorari and consequently direct the respondent to grant house site patta on the subject plot bearing No.30 in Survey No.274 in Sadapuram Village, Adoni Mandal, Kurnool District to the petitioner.

Counsel for the Petitioner:MR.R.V.SUBBA RAO

Counsel for the Respondents.1 to 3: G, P. for Revenue

Counsel for the Respondent No.4: None appeared.

The Court made the following :

ORDER

1. Heard the learned counsel appearing for the petitioner and the learned Government Pleader for the respondents 1 to 3 herein.

2. In this Writ Petition, the petitioner by way of writ of Mandamus,

seeks to assail the impugned order dated 16.7.1994 passed by the first respondent herein, dismissing the appeal filed by the petitioner as against the orders passed by the second respondent cancelling the patta granted in his favour.

3. The case of the petitioner in brief, is that though originally the fourth respondent was the assignee of the land in question, however he sold the same for a valuable consideration as per the document dated 30.1.1989, whereupon statement was recorded before the authorities on 7.6.1991, and accepting the same the land was assigned to the petitioner and subsequently the petitioner was granted house site patta on 15.7.1991. Since then, he has been in possession and enjoyment of the land. However, at the instance of the fourth respondent, the matter was once again taken by the second respondent, who cancelled the patta granted in favour of the petitioner by his order dated 7.2.1992. Appeal filed against the

order, dated 07-02-1992 was dismissed on 16.7.1994 by the first respondent on the ground that the petitioner and fourth respondent had no representation, and confirmed the above order passed by the second respondent.

4. It is argued on behalf of the petitioner that there was proper prayer before the first respondent especially with regard to the fact that the fourth respondent in fact sold the very same land to the petitioner and his statement was recorded on 7.6.1991. Therefore, the question of issuance of any notice does not arise. Thus the entire proceedings initiated at his instance once again rescind back by the statement recorded by him.

5 . Considering the submissions made and also on perusal of the

entire material on record, it is seen that admittedly the appeal filed by the petitioner came to be disposed of by the first respondent without hearing him and when his counsel was not present. The counsel, who filed the appeal before the first respondent, filed affidavit here to the effect that having regard to his engagement in this court, he has entrusted the matter to another colleague who could not possibly represent the matter and ultimately the matter went un-represented and the appeal was dismissed. Thus, it is contended that the absence was due to accidental and unintentional.

6. In view of the fact that there is no dispute with regard to the fact that there is no hearing before the first respondent herein and further in view of the fact that the petitioner claims the land under purchase from fourth respondent himself, who has initiated the proceedings, and also the fact that the statement was recorded on 7.6.1991, the matter requires to be considered on merits after hearing the petitioner.

7. Accordingly, the Writ Petition is allowed and the impugned order dated 16.7.1994 of first respondent is set aside. The matter is remitted back to the first respondent for fresh disposal on merits, in accordance with law, after giving notice to both sides. No costs.

16.7.2004

That Rule Nisi has been made absolute as above.

Witness the Hon'ble sril Devinder Gupta, the Chief Justice on Friday the sixteenth day of July Two thousand and four.

Assistant Registrar.

//True copy//

Section Officer.

To

1 Commissioner for Land Revenue Govt. of Andhra Pradesh
Hyderabad
2 Joint Collector Kurnool,
Kurnool Dist
3 Mandal Revenue Officer Adoni
Kurnool Dist
4. 2 C.Cs to G.P. for Revenue ,High Court Buildings, Hyderabad (OUT)

5. 2 C.D. copies.